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May 7, 2020

BY ECF

Honorable Ronnie Abrams
United States District Judge
Southern District of New York

**Re: *United States v. Jesus Encarnacion*,
19 Cr. 118 (RA)**

Dear Judge Abrams,

I represent defendant Jesus Encarnacion in the above-captioned case. On January 22, 2020, Mr. Encarnacion pled guilty. His sentencing is currently scheduled for June 12, 2020.

As the Court may recall, at an earlier stage in this case Mr. Encarnacion filed notice pursuant to Federal Rule of Criminal Procedure 12.2 regarding his intention to present an insanity evidence at trial. *See* ECF Dkt. 19. That notice, and any other proposed trial defenses, were obviously withdrawn by his guilty plea. In response to the notice, the Court appointed Dr. Stuart Kleinman to conduct an examination of Mr. Encarnacion and file a report pursuant to 18 U.S.C. §§ 4242(a) and 4247(b), (c). *See* ECF Dkt. 28. However, contrary to the requirements of § 4247(c) (stating that any expert appointed pursuant to these statutes “shall” provide his report to defense counsel and that the report must include specific findings), defense counsel has never been provided with Dr. Kleinman’s report.

By correspondence dated May 7, 2020, the government informed defense counsel that, in connection with sentencing, it intends to employ or rely on a report from Dr. Kleinman. However, to date, Dr. Kleinman has not filed any report with the Court or disclosed any report to defense counsel. Defense counsel previously contacted Dr. Kleinman and he refused to disclose any findings or conclusions, or have any substantive discussions about his findings with defense counsel.

Pursuant to the explicit requirements of § 4247, defense counsel respectfully requests that Dr. Kleinman and the government be ordered to immediately disclose

his report to defense counsel. Counsel respectfully reserves the right to object to the use of this report or any portion of it in connection with Mr. Encarnacion's sentencing, consistent with the requirements of Federal Rule of Criminal Procedure 12.2(c)(4) and other applicable statutory and case law. Thank you for consideration of this application.

Sincerely,

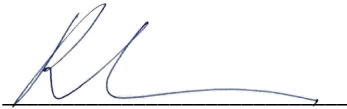
/s/

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cc: AUSA Kimberley Ravener (by ECF)

No later than May 13, 2020, the Government shall respond to Defendant's letter motion requesting the immediate disclosure of Dr. Kleinman's report.

SO ORDERED.

A handwritten signature in blue ink, appearing to be 'R. Abrams', written over a horizontal line.

Ronnie Abrams, U.S.D.J.

May 8, 2020